

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

CRYSTAL BYRD and BRIAN BYRD,)	
Individually, and on Behalf of all)	CIVIL DIVISION
Similarly Situated Persons,)	
)	
Plaintiffs,)	No. 1:11-cv-00101
)	
v.)	
)	
AARON'S, INC.,)	
ASPEN WAY ENTERPRISES, INC.,)	
d/b/a Aaron's Sales and Leasing,)	
a franchisee of AARON'S, INC.;)	
JOHN DOES (1-100) AARON'S)	
FRANCHISEES; and)	
DESIGNERWARE, LLC,)	
)	
Defendants.)	

**DEFENDANT DESIGNERWARE, LLC'S MOTION TO DISMISS PURSUANT TO
F.R.C.P. 12(b)(1) AND F.R.C.P. 12(b)(6) OR, IN THE ALTERNATIVE, MOTION FOR
SUMMARY JUDGMENT PURSUANT TO F.R.C.P. 56**

AND NOW, comes Defendant, DesignerWare, LLC (hereinafter "DesignerWare"), by and through its attorneys, Burns White LLC, and files the within Motion to Dismiss Pursuant to F.R.C.P. 12(b)(1) and 12(b)(6) or, in the Alternative, Motion for Summary Judgment Pursuant to F.R.C.P. 56, as follows:

Pursuant to F.R.C.P. 12(b)(1) and 12(b)(6), Defendant DesignerWare hereby seeks dismissal from this case based on Plaintiffs' lack of standing and failure to state a claim upon which relief can be granted, as to each of Plaintiffs' causes of action:

(1) Section 2511 of the Electronic Communications Privacy Act, 18 U.S.C.A. §2511
(Count I);

(2) Section 2512 of the Electronic Communications Privacy Act, 18 U.S.C.A. §2512
(Count II); and

(3) Section 1030 of the Computer Fraud and Abuse Act, 18 U.S.C.A. §1030, et seq
(Count III).

In the alternative, Defendant DesignerWare, LLC hereby moves the Court to dismiss Plaintiffs' Complaint as a matter of law pursuant to F.R.C.P. 56. DesignerWare's Motion is supported by the Brief filed simultaneously herewith, which is incorporated herein by reference.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on this 13th day of July, 2011 a copy of Defendant Designerware, LLC's Motion to Dismiss Pursuant to F.R.C.P. 12(b)(1) and F.R.C.P. 12(b)(6) or, in the alternative, Motion for Summary Judgment Pursuant to F.R.C.P. 56 was served on counsel of record, via electronic filing, addressed as follows:

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